

POLLUTION CONTROL HEARINGS BOARD

STATE OF WASHINGTON

WASHINGTON AGGREGATES AND
CONCRETE ASSOCIATION,

Appellant,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Respondent.

No. 04-

NOTICE OF APPEAL

Washington Aggregates and Concrete Association hereby appeals The
Sand and Gravel General Permit issued by the Department of Ecology on
January 5, 2005.

I. Appealing Party

1.1 Appealing Party

Bruce Chattin
Executive Director

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2 1.2 Representation

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10 **II. Identification of Parties**

11 2.1 Washington Aggregates and Concrete Association, Appellant.

12 2.2 State of Washington Department of Ecology, Respondent.

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14 **III. Copy of Permit**

15 3.1 The Sand and Gravel Permit issued on January 5, 2005. Exhibit A.

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17 **IV. Grounds for Appeal**

18 4.1 The Washington Aggregates and Concrete Association is a nonprofit
19 industry trade association representing sand, gravel, quarry rock,
20 cement, ready mix concrete and related businesses and suppliers in the
21 state of Washington (the "Association"). The Association has been
22 involved in the development of the 2005 Sand and Gravel Permit
23 ("Permit") and many of its members will be subject to the Permit.

24 4.2 The Association seeks review of the requirement in Condition S2 which
25 increase the frequency for pH monitoring for certain discharges to
26 groundwater and review of the requirements in Conditions S2, S3 and S4
to monitor Type 2 stormwater discharges.

4.3 Special Condition S2, Monitoring Requirements and Effluent Limitations
Matrix, requires monthly monitoring of pH for stormwater discharges to
groundwater from Ready-Mix Concrete and Concrete Product facilities
operating under SIC Codes 3273 and 3272. There is no explanation for

1 the substantial increase in pH monitoring required in the final permit.
2 In the 1999 Sand and Gravel General Permit the same discharges were
3 subject to monitoring for pH on a quarterly basis. The draft permit
4 submitted for public comment in June 2004 contained the same
5 requirement for quarterly monitoring. The Department of Ecology did
6 not receive comments on the draft permit requesting modification of this
7 condition and the modification was not addressed in the permit fact
8 sheet. The increased frequency in monitoring will be burdensome to
9 facilities subject to this permit condition and is not reasonably related to
10 the potential impacts from the subject discharges. The increased
11 monitoring frequency for pH in groundwater discharges is therefore
unreasonable and inconsistent with applicable law and regulations.

12 4.4 Special Condition S2 additionally includes requirements for monitoring
13 Type 2 stormwater. Type 2 stormwater discharge monitoring is also
14 required in Conditions S3 and S4. The Permit, in Appendix B thereto,
15 defines Type 2 stormwater as stormwater from "portions of a site where
16 mining has temporarily or permanently ceased, a site where with exposed
17 soils in areas cleared in preparation for mining or other industrial
18 activity or as undisturbed areas if the runoff is routed around the site in
19 an unlined ditch conveyance." The previous permit did not require
20 monitoring for Type 2 and the addition of Type 2 stormwater monitoring
21 was not included in the draft permit issued for public comment in June
22 2004. There were no comments submitted on the draft permit
23 requesting the inclusion of Type 2 stormwater monitoring requirements
24 and the Permit fact sheet fails to explain the basis for the inclusion of
25 these requirements in the final permit. The requirements are
26 burdensome, unreasonable and inconsistent with applicable law and
regulations.

1 **V. Statement of Facts**

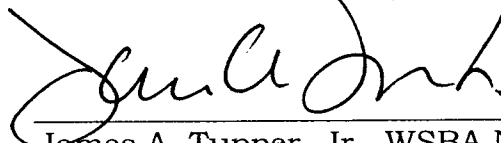
2 5.1 There is no factual basis for the modification of the permit to include
3 monitoring for Type 2 stormwater discharges or the increase in pH
4 monitoring from quarterly monitoring to monthly monitoring of
5 discharges of stormwater to groundwater from facilities operating under
6 SIC Codes 3272 and 3273.

7 **VI. Relief Sought**

8 The Association respectfully requests that the Board enter an order
9 remanding the permit to delete requirements in the Permit for monitoring for
10 Type 2 stormwater discharges and modification of the monitoring frequency
11 from monthly to quarterly for stormwater discharges to groundwater from
12 facilities operating under SIC Codes 3273 and 3732.

13 DATED this 2nd day of February, 2005.

14
15 MENTOR LAW GROUP, PLLC

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